

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 892 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

B V CHAVDA

Versus

STATE OF GUJARAT

Appearance:

MR DA BAMBHANIA for Petitioner
MR DP JOSHI AGP for Respondent No. 1
MR HS MUNSHAW, for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 16/02/2001

ORAL JUDGEMENT

The petitioner was not promoted, and, therefore, he challenged the decision of the authority by preferring an Appeal before the Gujarat Civil Services Tribunal, Gandhinagar. The Tribunal partly allowed the appeal by directing to communicate to the appellant-petitioner all adverse remarks that have been made against him in his Confidential Reports and which had not been communicated

to him within a period of 15 days from the date of receipt of copy of the judgment. It was further directed that the appellant should make a representation to the competent authority against the adverse remarks within a period of six weeks from the date of receipt of adverse remarks by him, and the concerned competent authority was to take a decision on such representation that may be made by the petitioner within a period of one month from the date of receipt of the representation. It was further directed that thereafter the District Development Officer of the concerned Departmental Promotion Committee should review the appellant's case on merits and in the light of the decision that may be taken on the representation that the appellant may make against the adverse remarks. It was further directed that if on such review, the appellant is held entitled to promotion, he should be granted that promotion with appropriate deemed date of promotion. All this exercise was required to be completed by the respondents within a period of four months from the date of receipt of copy of the judgment passed by the Gujarat Civil Services Tribunal.

The order dated 14.12.1981 was not challenged by the petitioner further, and he made a representation. His representation was considered and was rejected by an order dated 19.10.1982. The petitioner thereafter did nothing for a pretty long period of about two years and thereafter approached the Tribunal by preferring an Appeal No. 444 of 1984 on 29.9.1984. Thus, for a pretty long period of two years, the petitioner kept quiet. The Tribunal considered the merits of the case, and was of the opinion that no error has been committed and dismissed the appeal by an order dated 18.11.1985. It is against this order that this Special Civil Application is preferred on 10.3.1987 - again after a delayed period of about two years.

The Court would assist a litigant who is vigilant about his rights, and not who is sleeping over his rights and approaches the Court at his whims. If there is injustice, the person feeling aggrieved must immediately approach the Court. It is not the case of the petitioner that he was uneducated. The petitioner knows about his rights and has approached the Tribunal twice. This petition is filed under Article 227 of the Constitution of India.

On merits, Mr. Bambhanja submitted that the Tribunal has committed an error because in view of the settled legal position, the adverse remarks ought to have been communicated intime, but in the instant case, the

adverse remarks were communicated at a belated stage. It is required to be noted that against the adverse remarks, the petitioner approached the Tribunal. He was satisfied with the decision that was rendered by the Tribunal. He has not carried further the order passed by the Tribunal. Thus, he has accepted the decision and made a representation and ever after the decision, he kept quiet for two years. Therefore, this Court would not like to exercise its jurisdiction under Article 227 of the Constitution in the facts and circumstances of this case. Hence this petition is rejected. Rule is discharged. No order as to costs.

csm./ (B.C. PATEL, J.)